



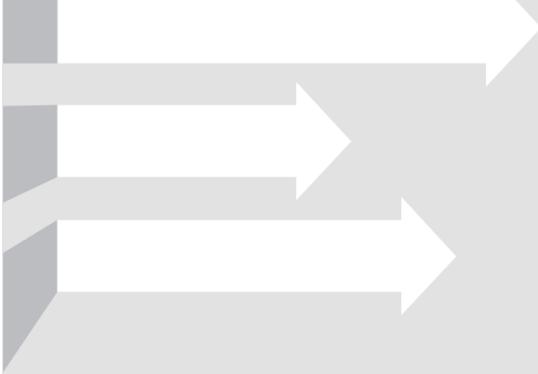
**Australian Government**  
**Australian Commission for  
Law Enforcement Integrity**

# INVESTIGATION REPORT

**Operation Voss —  
An investigation into corruption issues relating to  
cargo inspections by a Department of Agriculture  
staff member.**

A report to the Attorney-General prepared under s 54 of the  
*Law Enforcement Integrity Commissioner Act 2006 (Cth)*

**Report 1/2021**



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Investigation Reports published by the Integrity Commissioner  
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## About ACLEI Reports

### The Law Enforcement Integrity Commissioner Act

1. The *Law Enforcement Integrity Commissioner Act 2006* (Cth) (LEIC Act) establishes the office of Integrity Commissioner, supported by a statutory agency, the Australian Commission for Law Enforcement Integrity (ACLEI).

### The role of the Integrity Commissioner and ACLEI

2. The role of the Integrity Commissioner and ACLEI is to detect and prevent corrupt conduct and deal with corruption issues in designated agencies—presently the:
  - Australian Criminal Intelligence Commission (including the former Australian Crime Commission, the former National Crime Authority and the former CrimTrac Agency);
  - Australian Federal Police (including ACT Policing);
  - Australian Transaction Reports and Analysis Centre (AUSTRAC); and
  - Department of Home Affairs (including the Australian Border Force);
3. Other Australian Government agencies with law enforcement functions may be prescribed by regulation as being within the jurisdiction of the Integrity Commissioner.<sup>1</sup> At present those agencies include:
  - prescribed aspects of the Department of Agriculture, Water and the Environment;
  - Australian Competition and Consumer Commission (ACCC);
  - Australian Prudential Regulation Authority (APRA);
  - Australian Securities and Investment Commission (ASIC); and
  - Australian Taxation Office (ATO).

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<sup>1</sup> *Law Enforcement Integrity Commissioner Act 2006* (Cth) s 5(1) (definition of 'law enforcement agency') (LEIC Act); *Law Enforcement Integrity Commissioner Regulations* (Cth) s 7.

## Corrupt conduct

4. A staff member of a law enforcement agency 'engages in corrupt conduct' if the staff member:
  - abuses his or her office
  - perverts the course of justice, or
  - having regard to his or her duties and powers, engages in corrupt conduct of any other kind.<sup>2</sup>
5. The Integrity Commissioner is to give priority to dealing with serious and systemic corruption.

## Dealing with corruption issues

6. A corruption investigation can commence in different ways:
  - the Minister may refer to the Integrity Commissioner an allegation or information that raises a corruption issue.
  - the head of a law enforcement agency within ACLEI's jurisdiction must notify the Integrity Commissioner of any allegation or information that raises a corruption issue which relates to that agency.
  - any person or government agency can refer to the Integrity Commissioner an allegation or information that raises a corruption issue. A referral may be anonymous, or on behalf of another person.
  - the Integrity Commissioner can commence an investigation on his or her own initiative.<sup>3</sup>
7. The Integrity Commissioner may decide to deal with the corruption issue in a number of ways:
  - have ACLEI investigate the corruption issue either alone or jointly with another government agency or an integrity agency for a State or Territory.
  - refer the corruption issue to the law enforcement agency to conduct its own investigation.
  - decide that an investigation is not warranted.

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<sup>2</sup> LEIC Act, s 6(1).

<sup>3</sup> Ibid ss 18–24 and 38.

8. The Integrity Commissioner can decide to manage or oversee any investigation that has been referred to a law enforcement agency. If the law enforcement agency were not the Australian Federal Police (AFP), the Integrity Commissioner can also refer the issue to the AFP for investigation and may manage or oversee that investigation.<sup>4</sup>

## Reports

9. After completing a corruption investigation, the Integrity Commissioner must prepare a report setting out:
  - (a) the Integrity Commissioner's findings on the corruption issue; and
  - (b) the evidence and other material on which those findings are based; and
  - (c) any action that the Integrity Commissioner has taken, or proposes to take, under Part 10 in relation to the investigation; and
  - (d) any recommendations that the Integrity Commissioner thinks fit to make and, if recommendations are made, the reasons for those recommendations.<sup>5</sup>
10. The Integrity Commissioner must give the report on the investigation to the Minister who administers the LEIC Act and a copy to the head of the law enforcement agency to which the corruption issue relates.<sup>6</sup>

## Standard of proof

11. The Integrity Commissioner makes findings about whether a person has engaged in corrupt conduct, based on the balance of probabilities. Those findings may not be the same as those that would be made by a court deciding on criminal guilt beyond a reasonable doubt.
12. Before making a finding, the Integrity Commissioner is required to be 'reasonably satisfied', based on relevant facts, that the corrupt conduct occurred and that the corrupt conduct was within the meaning of the LEIC Act.

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<sup>4</sup> Ibid ss 26–30.

<sup>5</sup> LEIC Act, sub paragraphs 54(1)–(2).

<sup>6</sup> Ibid s 55.

13. In considering whether or not the Integrity Commissioner is ‘reasonably satisfied’ of relevant facts, the Integrity Commissioner applies the reasoning set out in *Briginshaw v Briginshaw*,<sup>7</sup> *Rejtek v McElroy*,<sup>8</sup> and *Re Day*.<sup>9</sup>

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<sup>7</sup> (1938) 60 CLR 336, 361–62 (Dixon J).

<sup>8</sup> (1965) 112 CLR 517, 521.

<sup>9</sup> (2017) 91 ALJR 262, 268 [14]–[18].

## Preface to the public version of Investigation Report 01/2021

14. Investigation Report 01/2021 is a report on Operation Voss, a corruption investigation relating to the involvement of a Department of Agriculture, Water and Environment (the Department of Agriculture).
15. Operation Voss commenced in 2016 with the substantive investigative activities concluding in 2017. Operation Voss resulted in three criminal prosecution, Mr Ibrahim was sentenced in 2019 and Persons B and C in 2020. These prosecutions concluded the investigation.
16. Following this, I prepared my report on Operation Voss pursuant to s 54 of the LEIC Act. I undertook a procedural fairness process as required by s 51.
17. On 12 February 2021, I gave the Attorney-General and the Secretary of the Department of Agriculture my finalised report on Operation Voss in accordance with s 55 of the LEIC Act.
18. I then considered whether it was in the public interest to publish Investigation Report 01/2021 under s 209 of the LEIC Act.
19. On 3 March 2021, I notified the Secretary of the Department of Agriculture and Mr Ibrahim that I was considering publishing Investigation Report 01/2021, giving the opportunity to provide submissions on the proposed publication in accordance with s 210 of the LEIC Act. The process concluded on 19 March 2021 with neither party providing submissions.
20. This is the version of Investigation Report 01/2021 I have decided is in the public interest to disclose.



Jaala Hinchcliffe  
Integrity Commissioner  
31 March 2021

## Summary of the Investigation

### Referral

21. On 10 December 2015, the then Department of Immigration and Border Protection (DIBP) received an anonymous letter alleging that the owner of a Company A was importing plants into Australia with the assistance of certain officers who were conducting the inspection of the plants for quarantine purposes. It was alleged that the owner of Company A had told others that he was fully in control of the Australian quarantine procedure and setting the timeframes for fumigation.
22. On 11 February 2016, the Secretary of DIBP notified the former Integrity Commissioner (Mr Michael Griffin AM) of a possible corruption issue in relation to the importation of plants by Company A.<sup>10</sup> The notification contained the anonymous letter dated 10 December 2015.

### Jurisdiction

23. On 15 June 2016, the then Integrity Commissioner, wrote to the Secretary of the Department of Agriculture and Water Resources (the Department of Agriculture) to inform the Secretary that he had considered the notification and decided to investigate the matter pursuant to s 26(1)(a) of the LEIC Act.
24. The then Integrity Commissioner was satisfied:
  - (a) The referral was within ACLEI's jurisdiction because the reference to officers who do quarantine inspections for imports into Australia was a reference to a staff member of the Department of Agriculture. At the time of the notification, a staff member of the Department of Agriculture performing these duties was a staff member of a law enforcement agency.<sup>11</sup>
  - (b) While no particular staff member was specified or identified this did not prevent the information from raising a corruption issue.<sup>12</sup>

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<sup>10</sup> This notification was found to be linked to a previous corruption issue, which provided valuable context to this investigation. This historic investigation was reconsidered in April 2019 by the then Integrity Commissioner with no further action being taken.

<sup>11</sup> LEIC Act ss 5(1) and 10(2E).

<sup>12</sup> *Ibid*, s 7(2).

- (c) The allegation fell within the meaning of ‘corruption issue’ as defined by s 7 of the LEIC Act. The information raised the possibility that a staff member of the Department of Agriculture may have abused their office by improperly using their position to assist in the importation of plants.
25. On 21 December 2016, the then Integrity Commissioner reconsidered the matter under section 42 of the LEIC Act and the matter became a joint investigation with the Australian Federal Police (AFP).
26. On 19 January 2017, the then Integrity Commissioner reconsidered the matter again under section 42 of the LEIC Act and joined the Department of Agriculture to the investigation.

## The Investigation

27. The objectives of the investigation were to:
- (a) determine the identity of the Department of Agriculture staff member to whom the corruption issue related; and
  - (b) determine if the Department of Agriculture staff member abused their office by using their position to assist Company A with the importation of plants into Australia.
28. During Operation Voss evidence showed, Company A was a multimillion-dollar company, through which the owner, Person B imported flowers into Australia. Company A serviced a wide range of retail and wholesale customers. The company maintained commercial premises, as well as two flower nurseries which were operated through other business entities.
29. Commercial imports of fresh flowers are subject to quarantine inspection upon importation into Australia. The inspection regime is determined and undertaken by the Department of Agriculture, based on the documentation provided by the importer and a physical inspection by an inspection officer. The inspection regime may include the flowers being sent to fumigation, which can impact their value.
30. Company A imported most of its flowers through air cargo from a variety of countries including Singapore, China and Thailand. Flowers imported transited through a company, ‘Company D’, which operates an Approved Arrangement premises, where the flowers were inspected for quarantine compliance by Department of Agriculture staff. They were then collected and transported to various locations, including Company A’s nurseries.

31. The investigation identified that Mr Erol Ibrahim, an employee of the Department of Agriculture, worked in undeclared secondary employment at Company A from 2013 and was associated with Person B. As Person B's son, Person C, took on a larger role at the company, Person C also became associated with Mr Ibrahim.
32. Mr Ibrahim commenced employment with the Department of Agriculture in September 2007. He worked primarily as a cargo inspector, where his role was to inspect consignments of plant material.
33. Mr Ibrahim met Person B prior to his employment at Agriculture; however, the relationship gathered momentum when Mr Ibrahim worked at Agriculture. They appeared to be friends and would have dinner together regularly.
34. In August 2012, Mr Ibrahim moved into a role in Audit Services at Agriculture. He began providing confidential departmental information to Persons B and C. This information was provided on request from Person B or C or, on rare occasions, on the basis that Mr Ibrahim thought the information might be of interest to them.
35. The information included commercial-in-confidence and other information about importers who were competitors of Company A, including information that revealed importation quantities, types of flowers being imported, freight costs, profit margins and costs of certain products of Company A's competitors.
36. Requests for information would be sent from Person B or C to Mr Ibrahim via text message and Mr Ibrahim would access the department systems to obtain the information. He would then either text the information back to Person B or C or write it down on paper from the screen.
37. In 2015, Mr Ibrahim returned to a cargo inspections role. From at least May 2016, Mr Ibrahim worked with Person B and Person C to manipulate overtime requests with the Department of Agriculture to coincide with the arrival of Company A's flower imports. Once Person B or C had advised Mr Ibrahim when a consignment was due to arrive, Mr Ibrahim would nominate for that overtime shift and would cancel and re-book consignments to ensure that he was on shift to inspect it. In this way, Mr Ibrahim not only ensured that he was the inspector for Company A's consignments, but that he was also able to conduct those inspections on overtime shifts.
38. Mr Ibrahim conducted inspections of Company A's consignments with leniency. He would allow Persons B and C to bring him the plant samples of their choice, rather than inspecting a representative sample. He was gentle in the inspection of consignments and as a result it was less likely any insects would be located.

39. In return, Mr Ibrahim received benefits from Persons B and C in the form of cash, overseas travel, part time employment with one of their companies and information to enable him to obtain overtime shifts with the Department of Agriculture. Persons B and C would advise Mr Ibrahim the time a consignment was coming, which would allow Mr Ibrahim to nominate for that overtime shift.
40. The cash payments that Mr Ibrahim received were small and irregular. They amounted to less than \$10,000 in total. He also received gifts from Persons B and C including flowers, ornaments and whisky.
35. On 30 January 2017, the Department of Agriculture executed a search warrant<sup>13</sup> on Company A's premises. ACLEI investigators were not involved in the execution of this warrant however evidence collected as part of the search was shared with ACLEI to assist with the ongoing investigation.
36. At about 7.00 am on 6 February 2017, Mr Ibrahim emailed his team leader and manager resigning from his position with the Department of Agriculture.
37. At around 8.30 am that day, search warrants<sup>14</sup> were executed by ACLEI, the AFP and the Department of Agriculture at business premises linked to Company A and the residence of Mr Ibrahim.

### **The Prosecution**

38. Mr Ibrahim pleaded guilty to the following offences:
  - (a) bribery of a Commonwealth public official (receiving a bribe) contrary to s 141.1(3) of the Criminal Code (Cth) (Maximum penalty: 10 years imprisonment)
  - (b) disclosure of information by a Commonwealth officer contrary to s 70(1) of the *Crimes Act 1914* (Cth) (Maximum penalty: 2 years imprisonment)
39. On 8 May 2019, Mr Ibrahim was convicted and sentenced by the County Court of Victoria as follows:
  - (a) 2 years and 6 months' imprisonment and a \$10,000 fine for the offence of 'receiving a bribe' contrary to s 141.1(3) of the Criminal Code; and
  - (b) 9 months' imprisonment for the offence of 'disclosure of information by a Commonwealth officer', contrary to s 70 of the Crimes Act.

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<sup>13</sup> Pursuant to the *Biosecurity Act 2015* (Cth)

<sup>14</sup> Pursuant to the LEIC Act

40. In sentencing Mr Ibrahim, His Honour Justice McInerney indicated that, were it not for Mr Ibrahim's plea of guilty, he would have been sentenced to a term of immediate imprisonment. His Honour also indicated that Mr Ibrahim's undertaking to cooperate in the prosecutions against Persons B and C was taken into account during sentencing. Had he not been willing to cooperate with law enforcement, Mr Ibrahim would have been sentenced to a total effective sentence of 4 years and 6 months' imprisonment. Instead, His Honour discounted Mr Ibrahim's sentence to a total 3 years' imprisonment and a \$10,000 fine, suspended to a good behaviour bond for 3 years.
41. On 17 September 2020, Person B pleaded guilty to a charge of giving a corrupting benefit to a Commonwealth public official contrary to s 142.1 of the Criminal Code. He was convicted and sentenced by the County Court of Victoria to 18 months' imprisonment and ordered to pay a fine of \$20,000, to be released on a recognizance of \$2,000 to be of good behaviour for 2 years.
42. On the same day, Person C pleaded guilty to a charge of aiding and abetting the giving of corrupting benefits to a Commonwealth public official contrary to ss 11.2(1) and 142.1(1) of the Criminal Code. He was convicted and sentenced by the County Court of Victoria to 7 months' imprisonment to be released on a recognizance of \$1,000 to be of good behaviour for 1 year.

## Findings

43. I am satisfied that the evidence obtained in the course of Operation Voss permits me to make findings that Mr Ibrahim engaged in corrupt conduct, namely, abuse of office.<sup>15</sup>
44. 'Abuse of office' is not defined in the LEIC Act. It is a concept primarily used in the context of criminal law. It generally involves using one's office to dishonestly benefit oneself or another, or to dishonestly cause detriment to another.<sup>16</sup>
45. While my findings concern corruption, not criminality, I consider these general elements expounded in the criminal law useful in considering whether a staff member of a law enforcement agency has engaged in conduct involving an 'abuse of their office'.
46. The evidence demonstrates that Mr Ibrahim used his position to conduct lenient inspections of plants imported by Persons B and C in return for a benefit that included cash, overseas travel, part time employment with them and information to obtain overtime shifts with the Department of Agriculture.

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<sup>15</sup> LEIC Act (n 1) s 6(1)(a)

<sup>16</sup> See eg *Criminal Code* (Cth) s 142.2(1).

47. The evidence also demonstrates that Mr Ibrahim provided confidential information held by the Department of Agriculture to Persons B and C.
48. I am therefore satisfied Mr Ibrahim engaged in corrupt conduct as defined in s 6 of the LEIC Act, while he was the staff member of a law enforcement agency, the Department of Agriculture.

## Action under Part 10 of the LEIC Act

49. The nature of the joint investigation with the Department of Agriculture meant that the Department had access to the material collected in this investigation. As a result, no action was undertaken under Part 10 of the LEIC Act.

## Corruption prevention observation

50. Operation Voss identified a situation where the formation of external relationships by law enforcement officers can create integrity risks and provide an enabling environment for corrupt conduct to occur.
51. In some instances, this can amount to grooming. Grooming is where external parties or criminal entities target officers due to the officer's access to valuable information or ability to make decisions. Once officers are targeted, groomers establish trust through building relationships over time. During this period, officers may become dependent on any benefits they receive by the groomer (such as money, social capital or gifts). Groomers then begin to request the targeted officers undertake actions or provide information to them, and officers comply.
52. Over time, groomers then capitalise on the relationship and due to the fear or threat of their complicity being exposed, officers continue to fulfil subsequent requests.<sup>17</sup>
53. As noted in the report, the law enforcement officer in Operation Voss engaged in various activities which indicated he was being groomed. However, it is important to note that such conduct does not occur in a vacuum. Corrupt conduct is often accompanied by poor workplace practices and other contributing issues that both allow the conduct to occur and prevent it from being noticed and/or reported. These can include the ability to disregard established work procedures or policies and poor operational security in relation to sensitive information.

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<sup>17</sup> See ACLEI's Grooming Factsheet: [https://www.aclei.gov.au/sites/default/files/18362 - aclei - corruption\\_prevention\\_final.pdf?acsf\\_files\\_redirect](https://www.aclei.gov.au/sites/default/files/18362_-_aclei_-_corruption_prevention_final.pdf?acsf_files_redirect)

54. It is important for Agencies to be aware of indicators demonstrating that employees may be at risk of grooming and consider how workplace practices and policies can provide necessary oversight and support to staff. Where officers have access to sensitive information and the ability to make influential decisions regarding the clearance of goods, appropriate checks and balances should be implemented to prevent integrity risks.
55. In response to a draft of this report, the Department of Agriculture have indicated that they have implemented several controls to address vulnerabilities identified in this matter which include:
- (a) Strengthening the management and allocation of client requested overtime to biosecurity officers, including separation of the operational teams that deliver regulatory services from those that allocated staff to perform client requested overtime;
  - (b) Requiring declaration, assessment and management of staff member's Conflicts of Interest, Outside Employment and receipt of Gifts and Benefits;
  - (c) Delivering face-to-face and online Integrity Training and fraud and corruption risk education programs that include themes such as grooming. This complements other integrity engagement with staff to strengthen awareness of appropriate work practices and policies and provide support for staff members; and
  - (d) The implantation of additional internal reporting pathways for staff to report integrity concerns.

## Recommendations

56. I do not make any recommendations as a result of this corruption investigation.



Jaala Hinchcliffe  
Integrity Commissioner  
12 February 2021